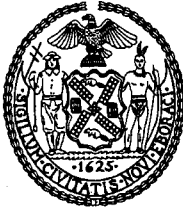


MEMO ENDORSED



Courtesy Copy

THE CITY OF NEW YORK
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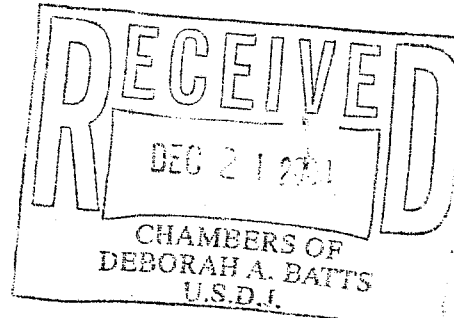
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DATE FILED: 12/21/04

December 20, 2004

BY ECF AND HAND DELIVERY

Honorable Deborah A. Batts
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007



Re: *Michael Johnson v. City of New York et al.*, 04 CV 6858 (DAB)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York and I represent defendant City of New York in the above-referenced civil rights action. In this action, plaintiff alleges that he was falsely arrested on criminal trespass-related charges. I respectfully write to request an enlargement of defendant City of New York's time to answer or otherwise respond to the complaint from December 20, 2004 to February 21, 2005. Plaintiff's counsel has consented to City defendant's request.

There are several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint.

Also, it is our understanding that any police records relating to plaintiff's arrest and detention have been sealed pursuant to New York Criminal Procedure Law §160.50. As Your Honor is aware, the City defendant cannot access general police records or any other records from the various City agencies until we receive proper releases from the plaintiff. Therefore, this office is in the process of forwarding to plaintiff for execution a consent and authorization for release of the sealed police records so that defendant City can access the information, properly assess the case, and respond to the complaint.

MEMO ENDORSED

MEMO ENDORSED

Granted
DAB
12/21/04

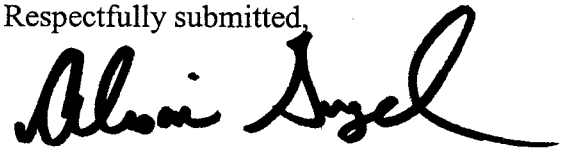
MEMO ENDORSED

Moreover and based upon the Court's Docket Sheet, the individuals identified in the caption of the complaint have not been served with the complaint. Therefore, should the Court grant this enlargement, it should allow plaintiff time to serve the individual defendants. If timely served, it may also give this office time to determine, pursuant to Section 50-k of the New York General Municipal Law, and based upon a review of the facts of the case, whether we may represent the individual defendants and if so, submit a joint response. *See Mercurio v. the City of New York et al.*, 758 F.2d 862, 864-65(2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made by defendant City. Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended to February 21, 2005.

Thank you for your consideration of this request.

Respectfully submitted,



Alison Gugel(AG 3698)
Assistant Corporation Counsel

MEMO ENDORSED

cc: J. McGregor Smyth, Jr., Esq. (via ECF and facsimile)
Attorney for Plaintiff
The Bronx Defenders
860 Courtlandt Avenue
Bronx, New York 10451
Facsimile No.: 718-665-0100

SO ORDERED



DEBORAH A. BATTS
UNITED STATES DISTRICT JUDGE

12/21/04

MEMO ENDORSED